

§ 245.15

24 CFR Ch. II (4–1–15 Edition)

(i) Before being acquired by the Secretary, was assisted under:

(A) Section 236 of the National Housing Act (12 U.S.C. 1715z–1);

(B) The Section 221(d)(3) BMIR Program;

(C) The Rent Supplement Program; or

(D) The Section 8 LMSA Program following conversion to such assistance from assistance under the Rent Supplement Program; and

(ii) Was sold by the Secretary subject to a mortgage insured or held by the Secretary and an agreement to maintain the low- and moderate-income character of the project;

(3) *State or local housing finance agency project.* The project receives assistance under section 236 of the National Housing Act (12 U.S.C. 1715z–1) or the Rent Supplement Program (12 U.S.C. 1701s) administered through a state or local housing finance agency, but does not have a mortgage insured under the National Housing Act or held by the Secretary. Subject to the further limitation in paragraph (b) of this section, only the provisions of subparts A, B and C of this part, and of subpart E of this part for requests for approval of a conversion of a project from project-paid utilities to tenant-paid utilities or of a reduction in tenant utility allowances, apply to a mortgagor of such a project;

(4) The project receives project-based assistance under section 8 of the United States Housing Act of 1937 (this regulation does not cover tenant participation in PHAs that administer such project-based assistance);

(5) The project receives enhanced vouchers under the Low-Income Housing Preservation and Resident Homeownership Act of 1990, the provisions of the Emergency Low Income Housing Preservation Act of 1987, or the Multifamily Assisted Housing Reform and Affordability Act of 1997, as amended;

(6) The project receives assistance under the Section 202 Direct Loan program or the Section 202 Supportive Housing for the Elderly program; or

(7) The project receives assistance under the Section 811 Supportive Housing for Persons with Disabilities program.

(b) *Limitation for cooperative mortgagor.* Only the provisions of subparts A and C of this part apply to a mortgagor of any multifamily housing project described in paragraph (a) of this section if the mortgagor is a cooperative housing corporation or association.

(c) *Definitions.*

Rent Supplement Program means the assistance program authorized by section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

Section 8 LMSA Program means the Section 8 Loan Management Set-Aside Program implemented under 24 CFR part 886, subpart A.

Section 221(d)(3) BMIR Program means the below-market interest rate mortgage insurance program under section 221(d)(3) and the proviso of section 221(d)(5) of the National Housing Act (12 U.S.C. 1715l(d)(3) and 1715l(d)(5)).

[61 FR 57961, Nov. 8, 1996, as amended at 65 FR 36280, June 7, 2000; 68 FR 20325, Apr. 24, 2003]

§ 245.15 Notice to tenants.

(a) Whenever a mortgagor is required under subparts D or E of this part to serve notice on the tenants of a project, the notice must be served by delivery, except, for a high-rise project, the notice may be served either by delivery or by posting. If service is made by delivery, a copy of the notice must be delivered directly to each unit in the project or mailed to each tenant. If service is made by posting, the notice must be posted in at least three conspicuous places within each building in which the affected dwelling units are located and, during any prescribed tenant period, in a conspicuous place at the address stated in the notice where the materials in support of the mortgagor's proposed action are to be made available for inspection and copying. Posted notices must be maintained intact and in legible form during any prescribed notice period.

(b) For purposes of computing time periods following service of notice, service is effected, in the case of service by delivery, when all notices have been delivered or mailed and, in the

case of service by posting, when all notices have been initially posted.

[50 FR 32402, Aug. 12, 1985, as amended at 61 FR 57961, Nov. 8, 1996]

Subpart B—Tenant Organizations

SOURCE: 65 FR 36281, June 7, 2000, unless otherwise noted.

§ 245.100 Right of tenants to organize.

The tenants of a multifamily housing project covered under § 245.10 have the right to establish and operate a tenant organization for the purpose of addressing issues related to their living environment, which includes the terms and conditions of their tenancy as well as activities related to housing and community development.

§ 245.105 Recognition of tenant organizations.

Owners of multifamily housing projects covered under § 245.10, and their agents, must:

(a) Recognize legitimate tenant organizations; and (b) Give reasonable consideration to concerns raised by legitimate tenant organizations.

§ 245.110 Legitimate tenant organizations.

A tenant organization is legitimate if it has been established by the tenants of a multifamily housing project covered under § 245.10 for the purpose described in § 245.100, and meets regularly, operates democratically, is representative of all residents in the development, and is completely independent of owners, management, and their representatives.

§ 245.115 Protected activities.

(a) Owners of multifamily housing projects covered under § 245.10, and their agents, must allow tenants and tenant organizers to conduct the following activities related to the establishment or operation of a tenant organization:

- (1) Distributing leaflets in lobby areas;
- (2) Placing leaflets at or under tenants' doors;
- (3) Distributing leaflets in common areas;

(4) Initiating contact with tenants;

(5) Conducting door-to-door surveys of tenants to ascertain interest in establishing a tenant organization and to offer information about tenant organizations;

(6) Posting information on bulletin boards;

(7) Assisting tenants to participate in tenant organization activities;

(8) Convening regularly scheduled tenant organization meetings in a space on site and accessible to tenants, in a manner that is fully independent of management representatives. In order to preserve the independence of tenant organizations, management representatives may not attend such meetings unless invited by the tenant organization to specific meetings to discuss a specific issue or issues; and

(9) Formulating responses to owner's requests for:

- (i) Rent increases;
- (ii) Partial payment of claims;
- (iii) The conversion from project-based paid utilities to tenant-paid utilities;
- (iv) A reduction in tenant utility allowances;
- (v) Converting residential units to non-residential use, cooperative housing, or condominiums;
- (vi) Major capital additions; and
- (vii) Prepayment of loans.

(b) In addition to the activities listed in paragraph (a) of this section, owners of multifamily housing projects covered under § 245.10, and their agents, must allow tenants and tenant organizers to conduct other reasonable activities related to the establishment or operation of a tenant organization.

(c) Owners of multifamily housing projects and their agents shall not require tenants and tenant organizers to obtain prior permission before engaging in the activities permitted under paragraphs (a) and (b) of this section.

§ 245.120 Meeting space.

(a) Owners of multifamily housing projects covered under § 245.10, and their agents, must reasonably make available the use of any community room or other available space appropriate for meetings that is part of the multifamily housing project when requested by: